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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,460	04/27/2001	Jonathan Andrew Clark	36-1423	8071
7590	01/26/2005		EXAMINER	
Nixon & Vandehye 8th Floor 1100 North Glebe Road Arlington, VA 22201-4714			STEVENS, ROBERTA A	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/830,460	CLARK, JONATHAN ANDREW
	<b>Examiner</b>	<b>Art Unit</b>
	Roberta A Stevens	2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 April 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-9 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06-22-01.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Miki (U.S. 20020136244 A1).

3. Regarding claim 1, Miki teaches (figs. 1, 19, 21, 23 and 48) a method of operating a communications system, comprising: a packet switched network (IP) a circuit switched network (ATM, LAN), a plurality of gateways connecting the two networks, comprising: receiving packet traffic at one of the gateways; establishing in the circuit-switched network a circuit from the gateway to a node on the circuit-switched network; and outputting the traffic from the gateway onto the circuit characterized by: outputting from the gateways polling messages addressed to the destination address of the traffic; receiving at the gateways replies from the destination address; determining the respective delay for the replies at the different respective gateways; selecting one of the gateways depending on the respective delay times; and establishing the virtual circuit to the gateway selected (page 6, paragraph 113 – page 7, paragraph 116).

4. Regarding claim 2, Miki teaches (fig. 48) the circuit switched network includes a plurality of independently controlled networks (switch) connected to different gateways.

5. Regarding claim 3, Miki teaches (fig. 2) the gateways communicate delay times to a control node, which selects one of the gateways.

6. Regarding claim 4, Miki teaches (page 6, paragraph 113 – page 7, paragraph 116) each gateway having a delay less than a threshold value communicates the delay to the control node.

7. Regarding claim 5, Miki teaches (fig. 1) IP packets.

8. Regarding claim 6, Miki teaches (fig. 1) the circuit-switched network is an ATM network.

9. Regarding claim 7, Miki teaches (figs. 1, 19, 21, 23 and 48) a control node including a control processor and a signaling interface communicates signals with a plurality of gateways in the circuit-switched network, being arranged to: communicate instructions to the gateways to transmit polling messages to a destination address in a circuit-switched network connected to the gateways; receiving from the gateways delays; selecting a gateway depending on the delays (page 6, paragraph 113 – page 7, paragraph 116).

10. Regarding claim 8, Miki teaches (figs. 1, 19, 21, 23 and 48) the gateway including a first interface for connection to a packet-switched network, a second interface for connection to a circuit-switched network, and a control processor including a control interface to communicate signals with a control node, comprising: transmitting a polling message to a destination address in the circuit-switched network; receiving a reply and determining the delay; communicating the reply to the control node (page 6, paragraph 113 – page 7, paragraph 116).

11. Regarding claim 9, Miki teaches (figs. 1, 19, 21, 23 and 48) a communications network including a control node and a gateway comprising a first interface for connection to a packet-switched network, a second interface for connection to a circuit-switched network, and a control processor including a control interface to communicate signals with a control node, comprising: transmitting a polling message to a destination address in the circuit-switched network; receiving a reply and determining the delay; communicating the reply to the control node (page 6, paragraph 113 – page 7, paragraph 116).

***Conclusion***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta A Stevens whose telephone number is 571-272-3161. The examiner can normally be reached on M-F 9:00am-5:30pm.
2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roberta A Stevens  
Examiner  
Art Unit 2665



STEVEN NGUYEN  
PRIMARY EXAMINER